

## OPPOSES THE UTILITIES BILL.

UNCONSTITUTIONAL, SAYS THE ATTORNEY-GENERAL.

It Confers Unprecedented Powers on the Governor and on the Commissions Which It Creates and Violates the Principle of Home Rule for Municipalities.

ALBANY, March 24.—Attorney-General Jackson has written a letter to Assemblyman Henry R. Glynn of Rochester in answer to a request for his views regarding Gov. Hughes' public utilities bill. The Attorney-General insists that the bill is unconstitutional and declares that the Democratic members of the Legislature should not stand for any bill which does not provide for a single State commission of five members to be elected by the people. Mr. Jackson says that Gov. Hughes should not be empowered to appoint a special commission for New York city. In his letter to Assemblyman Glynn the Attorney-General says:

"This bill has been assumed by the people and the press to be in accord with the recommendations of the Governor and with the public demand, but in many respects it falls far short of this effect and is open to the most serious objection. Great as undoubtedly is the urgency for reform, the magnitude of the proposition is such as to make full consideration and proper amendment imperative.

"The proposed bill makes provision for the appointment of commissioners by the Governor, by and with the advice and consent of the Senate. It gives the Governor the absolute power of removal over all these commissioners and the appointment of their successors during a recess of the Senate; also, the sole power of appointing the chairman of each of the commissions. The experience of the people in having their representatives chosen by indirectness has not been a happy one. They have grown restive because of their inability to directly elect their representatives to the United States Senate. The abolition of existing State commissions, appointed in precisely the same manner as is proposed for the new commissions, has been plainly demanded.

"It is unwise to proceed upon the theory that a mere change in the name and number of commissions, together with an amplification of powers, without any material change in the system of creating the commission, will insure better permanent results.

"The proposed bill continues the present appointive system, with magnified possibilities of the misuse of power and the perversion and suppression of the popular will. It places in the hands of appointive officers, administrators, judges and judicial powers and functions that should only be exercised by officers elected by and directly responsible to the people.

"Experience is complete justification for the fear that if this bill in its present form becomes law the appointive commissions which it creates and endows with unprecedented powers may some day become an asset of a political organization, and all the vast machinery which it sets up may fall into the hands of the very corporations now sought to be controlled.

"The proposed bill violates the principles of home rule for municipalities. It subjects municipalities to the same control, visitatorial and inquisitorial action of the commissions as it does corporations and individuals, and fixes penalties upon municipalities for failure to comply with the commissions' orders.

"It prohibits any city, town or village of the State from establishing and operating a plant for the production and distribution of gas or electricity for the benefit of its inhabitants without the consent of the State commission. It denies the right of municipalities to prevent monopoly by admitting competing plants or operating their own plants. This is usurpation by the State of the proper powers of a municipality and an indefensible interference by the central government with the right of the people to govern themselves.

"This bill provides that the expenses of the commission in the first district shall be borne exclusively by the city of New York; that the expenses of the commission in the second district shall be paid by the State of New York upon the audit of its Controller. This puts an unequal burden upon the city of New York, as after paying the entire expenses of the commission in the first district it bears its proportion of the expenses of the commission in other parts of the State.

"If the Board of Estimate and Apportionment of the city of New York fails to appropriate the amount demanded by the commission in the first district the Appellate Division of the Supreme Court in the first Department is authorized to determine the amount to be appropriated, and the decision of that court shall be final. The city of New York has no right to be taxed by a commission which is not established by law, but extends over other portions of the State.

"These provisions and the powers of the commission to fix the amount to be raised by taxation are continually in conflict with the existing laws of the State which provide that the Constitution relating to taxation and the government of cities.

"The provision in the bill authorizing each commission to create a legal fund, and which shall represent and appear for the people of the State of New York and the commission in all actions and proceedings involving any question under this act is unconstitutional. It seeks to divert the office of the Attorney-General of duties and powers conferred by the Constitution, and is but another advance of the extravagant and illegal policy out of which the special counsel candidates have sprung.

"The Attorney-General is the constitutional law officer of the State, and his office cannot be abolished piecemeal by the Legislature. The most important activities of the Attorney-General are those which grow out of conflicts between the State and the public utility corporations, and I believe that the suggestion to subordinate the Attorney-General to counsel selected by an appointive commission will not be seriously considered by the Legislature.

"The Governor recommended a single commission to take the place of the Board of Railroad Commissioners and the Commission of Gas and Electricity for the reason that there are now corporations which are subject to the jurisdiction of both commissions and in some cases the same questions are presented for the decision of both.

"This bill creates two commissions, each acting separately within the jurisdiction for which it is appointed. Each will be required to deal with similar questions, and it is difficult to see how any harmony of administration can be maintained by separate and distinct boards acting upon precisely similar questions in different parts of the State, whose decisions upon these questions may be and probably would be, in direct conflict.

"In the interests of economy, harmony and efficiency, it is suggested that a single commission of not more than five members, who would give all their time to their official duties and engage in no other occupation, should be created with jurisdiction over the whole State.

"The commission should be in daily session instead of being required to meet no more than once a month, as is provided in the proposed bill. It also should be permitted to hold sessions in any part of the State.

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## TO WITHDRAW MAIL STEAMERS

RESULT OF THE DEFEAT OF THE SHIP SUBSIDY BILL.

Oceanic Steamship Company Gives Notice That It Will Discontinue Carrying the Mails by Direct Route From San Francisco to Australia After April 6.

WASHINGTON, March 24.—Owing to the inability of the Government to pay a subsidy in the absence of specific appropriations by Congress, the Oceanic Steamship Company has notified the Postmaster-General that on April 6 it will withdraw its steamers now engaged in carrying the mails by direct route from San Francisco to New Zealand and Australia. Postmasters throughout the United States have been instructed to decline to receive packages addressed for delivery in the countries named until further orders, which will be issued as soon as other arrangements can be made for the transportation of such mail.

It is the expectation of the authorities that contracts will soon be made for the carriage of mail to Australia and New Zealand by steamers sailing regularly from Vancouver and by the more roundabout way of dispatching mail to those countries via Liverpool or London. Both avenues will be used according to the exigencies of the occasion.

Postal authorities declare that until Congress authorizes the payment of subsidy it will be impossible to despatch mail by direct routes for long distances across the Pacific. For some years the Oceanic Steamship Company has had the contract for transporting the mails to Australia and New Zealand. Under the law the Government is able to pay not more than \$2 per outward mile for the service. Seventeen trips a year were made. Australia paid the line a subsidy, but this, together with the amounts allowed by the United States, were not sufficient to make the enterprise a profitable one. The company threatened some time ago that if liberal allowances were not made for this class of business it would discontinue the San Francisco-Auckland-Sydney route.

One of the arguments made in behalf of the ship subsidy bill considered at the last session of Congress was that its passage would insure the establishment of direct mail connections with parts of South America and make certain a continuance of the mail lines in operation between the Pacific Coast and Australia and New Zealand. The Oceanic Steamship Company lived in the hope that the subsidy bill would be enacted into law. When it failed it made arrangements to go out of business so far as the mail transportation in question was concerned.

Officials of the Post Office Department say that the Oceanic is the only transportation company that has ever made a bid on the Auckland-Sydney contracts under the law of 1901, which limits expenditure for the carriage of the mail on that route to \$2 an outward mile. It was evidently supposed when the law passed that competition for the work would be keen and active.

The authorities are hopeful that a measure will be passed at the next session which will make possible the creation of direct mail routes to Australia and New Zealand as well as to South America.

PAUL MORTON SUGGESTED IT. Interstate Commission Adopts an Idea He Advanced Six Years Ago.

WASHINGTON, March 24.—The action of the Interstate Commerce Commission in appointing departmental commissioners at places remote from Washington for the purpose of receiving complaints and hearing testimony, thus relieving the commission of a large amount of work and furnishing a more direct and quicker method of dealing with railway problems, was the result of long and careful consideration. The suggestion upon which the commission acted has been generally attributed to B. F. Yookum, chairman of the board of directors of the Rock Island Railroad, but as a matter of fact Paul Morton, former Secretary of the Navy and now president of the Equitable Life Assurance Society, advanced and urged the idea six years ago.

Mr. Morton was the second vice-president of the Atchafalpa, Topeka and Santa Fe Railroad. As part of a plan of railroad reform he proposed to the Western road that they employ an attorney to be stationed in Chicago as the resident representative of the Interstate Commerce Commission, and that all complaints of discrimination, preferential rates and rebates be made to this officer, who shall have full authority to investigate charges and institute proceedings against offending roads and their officials. The railroad, it was proposed by Mr. Morton, should pay his salary by joint contribution, and if necessary the expenses of the office.

Mr. Morton's argument in support of putting the expense of this place upon the railroad was that to have such a deputy in a Western city would save them much money that was being lost through the elaborate and often improper practices of the railroad. The railroad, it was proposed by Mr. Morton, should pay his salary by joint contribution, and if necessary the expenses of the office.

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## CONCERTS AT OPERA HOUSES.

Great Audiences at the Manhattan-Farewell Night at the Metropolitan.

The third special Campanini Sunday concert given at the Manhattan Opera House last night drew an audience that packed the house to the doors.

The programme consisted of four orchestral numbers which were conducted with Campanini's accustomed mastery of the baton. The selections which made the greatest impression were the overture from Verdi's "La Forza del Destino," the music from "Parsifal" described as "Kling-sor's Zaubergitarre" and the overture from "Götterdämmerung." The selections were received with much enthusiasm and Campanini and the entire orchestra were finally forced to rise in acknowledgment of the prolonged applause.

The singers for last night were MM. Ancona, Sammarco and Bassi and Mmes. Pinkert and Donalds.

Mme. Pinkert's rendering of the polkaise from "Mignon," which may perhaps be her last appearance this season, seemed to please, and she was repeatedly recalled until the next number was put on to allow the programme to be finished before midnight.

Ancona's Dio Possentes, from Gounod's "Faust," and Sammarco's rendering of the torador song from "Carmen" were well received.

Two duets were on the programme last night and scored heavily. Mme. Donalds and M. Ancona sang the duet from "Don Giovanni" and Mme. Pinkert and Ancona sang the duet from "The Barber of Seville." The innovation pleased the audience. The singers not only sang but acted the parts, and the animation displayed in their

rendering apparently extended itself to the audience as was evident by the volume of applause.

The last Sunday night popular concert of the season at the Metropolitan brought out a goodly number of popular singers and a goodly number of popular selections. Two of the singers, much to the delight of the music lovers, gave encores and these, of course, were favorites too.

Mrs. Geraldine Farrar and Pol Plancon were the ones who obliged in this respect. Mrs. Farrar sang an aria from "Madama Butterfly" and a waltz song by Bemberg as her regular numbers, and for one of her encores sang "Fire the Eye," the latter playing her own accompaniment. Mr. Plancon sang as one of his regular numbers "The Palms," which was followed by such applause that he followed with "The Two Grenadiers." Mr. Plancon sang this with even more fervor than his first, and the audience could not with difficulty refrain from beginning their applause before he finished.

Mme. Fleischer-Eidel, Mme. Marie Rappold and M. Straciarri were the other singers who made their final bow last night. Mme. Rappold sang the jewel song from "Faust" and a ballad, "Komm mit mir in die Frühlingnacht," by Von der Stucken, the latter piece eliciting the audience so much that they called for her again and again in the hope that she, too, would follow the extemporaneous song of M. Plancon, but Mme. Rappold smiled sweetly and declined. Mme. Fleischer-Eidel sang an aria from Schubert's "Erlösener" and two German songs; Mr. Straciarri sang "La Donna Ruota" from "Fedora," and Tirindelli's "Amare e Soffrire."

The orchestra last night, under the direction of M. Bovy, also contributed to the supply of favorites, playing among other things

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